

IN SENATE OF THE UNITED STATES,

APRIL 15, 1822.

Mr. Elliott, from the Military Committee, made the following report:

The Military Committee, to whom was referred the resolution instructing them to inquire into the expediency of providing for the final settlement of the militia claims of the state of Georgia, for services rendered under orders of the President of the United States, during the years 1792, 1793, and 1794,

REPORT:

That, in the examination of this subject, sundry authentic letters and other documents were submitted to their inspection; among which the following, being deemed the most material, are here so arranged and condensed as to present to the Senate, with the least possible detail, the merits of the case, viz.

A letter from the Governor of Georgia to the Secretary of War, dated 22d of May, 1792, communicating to the department official information of the hostile disposition of the Creek and Cherokee Indians, as manifested in the murders which they had just committed, and the houses they had destroyed by fire. After stating these facts, the Governor proceeds, "when you maturely deliberate on the present position of the federal troops, and contemplate the orders to that effect, you will doubtless foresee a series of complicated difficulties that may attend the army in the event of general hostilities. The movement of the army ought to be governed by circumstances; and whilst it is to remain subject to orders issued at the remote distance of *one thousand miles*, I cannot help feeling for the situation of the defenceless settlers scattered over an extensive frontier of at least three hundred miles! The savage depredations that have taken place, for near three years past, have been considerably to the westward of the Rock landing; from which, to the river Ingalo, there is a frontier of about one hundred and thirty miles exposed to Indian ravages. When I point out this as defenceless ground, I do not leave out of view that portion of the frontier from the river St. Mary's to the Rock landing; for, should a pressure take place to the westward, the Indians have sufficient sagacity to retaliate on the settlers on the lower frontiers. From these considerations, *additional exertions towards a general defence will be indispensable.*"

On the 15th of June, 1792, Major Richard M'Call, the commandant of the federal troops in Georgia, thus addressed the Governor of the state: "I have just returned from the big or high shoals of

Oconee. On my way up, I found the settlements breaking. At this particular crisis, the settlers neglecting their crops will of course be an injury to the frontiers. I have, therefore, in consequence of your Excellency's permission, called into service some militia. The reports of Captains Barnet and William Strong, my letter to Gen. Clark, and my instructions to the different officers, will show the occasion of the measure."

The Governor of Georgia was informed by letter from Andrew Pickens, dated at Hopewell, 12th September, 1792, that the Cherokee Indians, instigated by Spanish agents, had manifested an unfriendly disposition, and that four towns had actually determined on war! that the chiefs of the Creek nation had not returned from Pensacola, but were soon expected with a large supply of ammunition, at which time it was expected a general war would commence between that nation and the United States. This letter was accompanied with one from Capt. R. B. Roberts, commanding the United States' troops at fort Matthews, Big Shoals of Oconee, informing the Governor of the contents of a letter received by him from Mr. Shaw, the superintendent of the Cherokee nation, which induced him to look for a predatory war, if *nothing more serious*. "The weakness of this post," continues the Captain, "(although it is my duty to defend it to the last) is such as to render its tenure very precarious; the strength of it only twenty-four privates! The frontiers here are truly deplorable. No ammunition, no authority, and no settled mode adopted by government for their protection. As I am on the spot, I hope your Excellency will not imagine I presume to dictate; but really, Sir, if the militia are not called out *immediately, in force*, this settlement will be totally broken up, and dreadful consequences will ensue." To this letter, the Governor replied on the 18th Sept. 1792, "That the commandant of the federal forces had long since been served with a provisional arrangement of the militia, by which it will appear that ample provision has been made by the government for any events that have as yet arisen, and, in case emergencies should require additional aid, to the one third of the militia, under orders agreeably to the aforesaid arrangement, there shall be no delay, on my part, in affording every support that the situation of the state will admit." In confirmation of this statement, copies of general orders of the years 1790 and 1792 are found among the papers referred to the committee for examination. By these, the militia of the state are classed, and held ready for active operations, whenever their services should be required.

On the 27th October, 1792, the Governor of Georgia was informed, by the Secretary of War, of the determination of five towns of the Cherokees, consisting of from three to five hundred warriors, and aided by the Upper Creeks, to commence hostilities against the United States. But, adds the Secretary, "as Congress is on the eve of their session, this information would be communicated to them; the constitution having invested that body with the powers of war, no offensive operations can be taken until they shall be pleased to au-

thorize the same. At present the information does not warrant the conclusion that more of the Cherokees than five towns, and the Creeks before mentioned, are for hostilities, but when the flames of war are lighted up, it will be difficult effectually to restrain them within narrow limits. If the information which you may receive, shall substantiate clearly any hostile designs of the Creeks against the frontiers of Georgia, *you will be pleased to take the most effectual measures for the defence thereof, as may be in your power, and which the occasion may require.*" On the 18th of November, 1792, the Governor was informed by Major Henry Gaither, of the federal troops, that, believing it to be necessary, and in consequence of his permission to do so, he had called into service two additional troops; one from Wilkes county, and the other from the county of Elbert.

In a letter of the 29th of April, 1793, the Secretary of War was thus addressed by the Governor of Georgia: "From the depositions of Benjamin Harrison and Francis Pugh, and from the information of Joseph Dabb, there is little expectation of avoiding a general war with the Creek and Cherokee Indians. *Blood has been spilt in every direction on the extended frontier of this state, and one man killed in South Carolina.*" After stating the plans he had adopted for temporary defence, he adds, "I shall follow this plan of operation, until measures be taken by the President for the better protection of the unfortunate settlers on this exposed frontier. If I find the pressure become great, *the opposition must keep pace with the several emergencies.*"

On the 8th of May, 1793, his Excellency again wrote the Secretary of War, that "such was the havoc and carnage making by the savages in every direction on our frontiers, retaliation by open war became the only resort. That the horrid barbarities recently committed (some recitals of which were enclosed) had compelled him to cause the additional aid of six troops of horse to be drawn into service."

On the 30th of May, 1793, the Secretary of War acknowledged the receipt of the several letters which had been addressed by the Governor to that Department, and adds, "that from *considerations of policy* at this critical period relative to foreign powers, and the pending treaty with the northern Indians, it is deemed advisable to avoid for the present offensive expeditions into the Creek country. But, from the circumstances of the late depredations on the frontier of Georgia, it is thought *expedient to increase the force in that quarter for defensive purposes.* The President, therefore, authorizes your Excellency to call into, and keep in service, in addition to the regular force stationed in Georgia, one hundred horse, and one hundred militia foot, to be employed under the orders of Lieut. Colonel Gaither, to repel inroads, as circumstances may require." After directing the manner of forming and employing this force, the Secretary concludes thus: "the case of a serious invasion of Georgia by large bodies of Indians, must be referred to the provisions of the constitution. But, the providing with efficacy in future (the neces-

sity of which appears but too probable) requires absolutely that no unnecessary expense shall be incurred in the mean time."

In reply to the Governor's letter of the 8th of May, the Secretary of War, on the 10th of June, says, "the state of Georgia being invaded, or in imminent danger thereof, the measures taken by your Excellency may be considered as indispensable. You are the judge of the degree of danger, and of its duration, and will undoubtedly proportion the defence to the exigencies. The President, however, expresses his confidence, that as soon as the danger which has induced you to call out such so large a body of troops shall have subsided, you will reduce the troops to the existing state of things, *provided the safety of the frontiers will admit the measure.*" After speaking of some military supplies that had been forwarded, he thus concludes: "as a general and open Creek war in the present crisis of European affairs, would be complicated and of great magnitude, the President is *anxiously desirous* of avoiding such an event." "Enclosed is a copy of a letter to the Governor of South Carolina, in case circumstances should require you to call for aid from that state."

The language of this letter to the governor of South Carolina is strongly expressive of the President's apprehensions of a state of serious hostilities with the Indians. The secretary says to the governor, "The President of the United States has received authentic information from Georgia, of the *unprovoked and cruel outrages* of parties of Creeks upon the frontiers of that state; and, as it is at present uncertain to what degree the evils complained of may be extended, the President has directed me to request your excellency, that, in case the frontiers of Georgia should be seriously invaded by large bodies of hostile Indians, you would, *upon the request of the governor of said state*, direct such parties of the militia of South Carolina to march to the assistance of Georgia as the case may require; for the *expenses of which the United States will be responsible.*"

On the 19th of July, Captain Constant Freeman was sent into Georgia, as agent of the War Department, to regulate the issues of public property to the troops who might be in the service of the United States, and to prevent or remedy any abuses which existed. Having immediately on his arrival entered on the duties of his appointment, on the 17th of October, 1793, he directed Major Gaither to attend to the instructions which he had communicated to him from the War Department, in relation to the monthly muster and inspection of the militia in the service of the United States, promising to aid the person he should appoint with the necessary instructions.

On the 19th of February, 1794, his excellency George Matthews, who had succeeded Mr. Telfair in the government of Georgia, and having in person examined the exposed parts of the state, offered a plan for its defence to the War Department. He protests against the orders which forbid the militia from pursuing the Indians whose tracks were stained with the blood of those they had just murdered, over a temporary and artificial line; as calculated to encourage the Indians, and to deprive the citizens of the state of the opportunity of

reprisal, enjoyed by all nations under such circumstances. This letter is concluded with the following remarks: "I have now to request that some person may be appointed to muster the militia that now are, or have been in service, as I presume Captain Freeman has informed you of Major Gaither's having refused to make the appointment. I can, sir, with great sincerity assure you that in the defence I may require for this state, I have not a wish to make the expense one shilling more than is requisite; and when you reflect that we possess a frontier of more than four hundred miles, exposed to numerous tribes of hostile Indians, I flatter myself the plan I now submit will not be deemed extravagant. I have to request, if the arsenal or military stores of the United States will admit of it, that you send forward equipments for three or four hundred horse. I trust the President will not think this unreasonable, when it is taken into view that this state forms an extensive barrier, or rather picket, to the United States."

In letters of the 25th of March, and 14th of May, 1794, the Secretary of War acknowledges the receipt of Gov. Matthew's letter; assents to the propriety of his plans, generally, for the defence of the state, and sanctions, particularly, the erection of block-houses throughout the whole line of exposure, at the distance of twenty-five miles apart. On the subject of the pay of the militia theretofore employed, the Secretary observes, "As to the number of militia kept up by your predecessor during the last year, no returns or muster rolls have been received, of course no judgment can be formed of their amount; some reports have made the number before mentioned to you. When the returns and musters shall be received, the question will be impartially considered by the President of the United States, whether, under all the circumstances of the case, he can consider himself as authorized to pay them. If he cannot, which is most probable, the question will be submitted to Congress." In relation to the muster and pay rolls, the agent of the War Department, Captain Freeman, thus addressed the Governor of Georgia, on the 28th of April, 1794. "I am very happy that your excellency has ordered the muster and pay rolls for the militia to be prepared and forwarded; and that *we so perfectly coincide respecting the nature of the service which has been performed.* I make no doubt but that all obstacles will be removed, as soon as the former accounts of the militia can be laid before Congress, and that in future regularity and order will be introduced."

On the subject of these claims, Captain Freeman, in a report to the Secretary of War, made the 25th of October, 1802, after stating what muster and pay rolls he had forwarded to the War Department, and particularly noticing those for the service termed *unauthorized*, remarks, "When the accountant received the first estimates, he required explanations relative to these claims; and afterwards a certificate from the Governor, that *the militia had been called into service for the defensive protection of the frontiers.* This requisition I transmit-

ted to his excellency, who made a statement of the militia services, I transmitted it to the Secretary of War, from whom I received a letter which encouraged the hope that those claims would be admitted and paid; and other letters, afterwards received from the accountant, confirmed this belief. However, from the *peculiar circumstances of the government at that time, the attention of the Secretary of War was wholly occupied upon other objects*; and he left the department before any decision took place. It is proper to observe, the citizens of Georgia never thought the force authorized by the President of the United States adequate to the protection of the frontiers."

From the foregoing exposition of the papers submitted to the examination of the committee, and the contents of others yet to be noticed, the following facts seem to be established: That, during the years 1792, 3, and 4, the state of Georgia was almost constantly in a state of serious alarm and danger from Indian hostilities, against which she was not permitted to defend herself, as was her obvious policy, by carrying the war into the enemy's country, and, by burning and destroying their villages and crops, to have relieved her citizens from the painful necessity of being for years in arms upon her frontiers: That Georgia was not permitted to pursue this course, because it was the duty and one of the attributes of the federal government "to provide for the common defence," and its policy in this instance, having a due regard to the safety of other parts of the Union, and the *success of pending negotiations with other Indian tribes*, forbid a war with the Creek and Cherokee Indians: That the President became at length seriously convinced of the dangerous situation of the state, and not having federal troops at his disposal, did, on the 27th of October, 1792, invest the governor of Georgia with discretionary powers in relation to the force to be employed for the safety of the inhabitants; but confined his operations strictly to defensive measures. That the governor continued in the exercise of this discretionary power until the 30th of May, when it was suspended by a letter of that date, from the Secretary of War; but from the increasing pressure upon every part of the frontier, the power to act discretionary was again restored in the broadest terms in the letter of the Secretary of the 10th of June; wherein he says, "The state of Georgia, being invaded or in imminent danger thereof, the measures taken by your excellency may be considered as indispensable. *You are the judge of the degree of the danger and of its duration*, and will undoubtedly proportion the defence to the exigency." So ample was this power thus given for defensive purposes, that in its exercise the governor of Georgia was not restricted to the use of the means within the state, but was informed that the governor of South Carolina had been required, *should he request it*, to order a detachment of the militia of that state to his assistance. That under this authority the governor of Georgia did call out and place under the command of the federal officers in that state, large bodies of its militia, who were employed along a frontier of nearly four hundred miles for defensive purposes, during the periods to which this

inquiry was directed. The services of which troops are acknowledged, and the estimates of the pay claimed by them, amounting to \$129,375 66 are found in the documents examined by the committee, and in relation to which the then Secretary of War, Mr. Pickering, wrote the agent of the War Department, in Georgia, in August, 1795. "The large estimate for services, about which my predecessor doubted, I have looked into, and will immediately further examine. From the complexion of these claims, connected with the governor's certificate, which I received enclosed in your letter of the 23d of June, I am inclined to think *they must be generally admitted.*"

And again, in a communication to the governor in September following, the Secretary of War assures him that "money for paying the Georgia militia is preparing to be forwarded. No delay will take place that is avoidable. The post is on the point of starting. I shall write you particularly by the next."

That the President did intend to entrust the defence of the state of Georgia to the discretion of the Governor is apparent from his requiring, as necessary to a decision on these claims, his excellency's certificate that the troops were called into service *by him, and employed for defensive purposes.* That they were not, therefore admitted and paid by the administration under which they were authorized can be accounted for only upon the grounds suggested by the agent of the War Department: "That from the peculiar circumstances of the government at that time, the attention of the Secretary of War was wholly occupied upon other objects, and he left the department before any decision could be made."

Under this view of the subject, your committee are of opinion, that the defence of Georgia was a necessary measure on the part of the Federal Government; but became expensive and protracted from the peculiar situation of the United States, which did not permit an invasion of the Indian territory. That the forces employed by the governor in defensive operations under the authority of the President did not exceed the exigencies of a frontier of nearly *four hundred miles*, constantly exposed to the incursions of treacherous enemies inhabiting the adjacent territory; and whose security from pursuit enabled them to concert, in safety, upon the very confines of the state, their plans of robbery and murder; and consequently the expenses of this defence are justly chargeable against the United States. They therefore recommend the following resolution.

Resolved, That the Military Committee be instructed to report a bill appropriating \$129,375 66 in full discharge of the militia claims of Georgia.

